

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

ADAM J. KIMMICH, SP 2013-MV-033 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction in minimum yard requirements based on error in building location to permit roofed deck to remain 6.8 ft. from side lot line, dwelling to remain 4.8 ft. from side lot line and accessory storage structure to remain 0.8 ft. from side lot line and 3.1 ft. from rear lot line. Located at 6402 Thirteenth St., Alexandria, 22307, on approx. 7,000 sq. ft. of land zoned R-3. Mt. Vernon District. Tax Map 83-4 ((2)) (25) 19. Mr. Hart moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 17, 2013; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the land.
2. With respect to the house itself, the paper trail is a mess, but it appears that although a building permit was approved that required demolition of either side of the house in conjunction with the construction of the addition over the top of the middle of the house, it looks like the sides stayed, and then the addition was built anyway. Somehow, that is all approved or the building permit is closed out.
3. However we got to that point, the applicant purchased the property this way. It is not his fault. He bought it like this, and the Board does not see that it is appropriate to make him tear down the sides of the house after he bought it.
4. It does not seem that inconsistent with the New Alexandria neighborhood anyway.
5. Frankly, the Board had a whole slew of cases after Hurricane Isabelle.
6. In that whole neighborhood, there were a lot of things that had to be redone, and there are many houses in there that are too close to the line or there is something that has happened over the years that is perhaps not strictly by the book, but that is the pattern in that neighborhood, and this does not seem inconsistent with that.
7. The Board does not think there would be any significant negative impact by leaving the house just how it is.
8. It is a very attractive house.
9. The Board does not think it would bother anyone.
10. With respect to the shed, the pattern of development in New Alexandria, the Board would be surprised if there was not a shed back by the alley.
11. Many similar sheds could be seen from the photograph.
12. This is a well-constructed, attractive storage facility.
13. It does not seem like it is going to be bothering anyone.
14. It is certainly in keeping with what is in the neighborhood.
15. The Board has approved other sheds in New Alexandria under very similar situations.

16. The Board has a letter from the president of the citizens association in support.
17. The Board has a letter from Supervisor Hyland urging approval.
18. There does not seem to be any opposition except an anonymous complaint.

THAT the applicant has presented testimony indicating compliance with Sect. 8-006, General Standards for Special Permit Uses, and the additional standards for this use as contained in the Zoning Ordinance. Based on the standards for building in error, the Board has determined:

- A. That the error exceeds ten (10) percent of the measurement involved;
- B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required;
- C. Such reduction will not impair the purpose and intent of this Ordinance;
- D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity;
- E. It will not create an unsafe condition with respect to both other property and public streets;
- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner; and
- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the granting of this special permit will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
2. That the granting of this special permit will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:


1. This special permit is approved for the locations of the roofed deck, dwelling, and accessory storage structure as shown on the plat prepared by Dominion Surveyors,

Inc., dated February 27, 2012, as submitted with this application and is not transferable to other land.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Mr. Beard seconded the motion, which carried by a vote of 5-0. Mr. Hammack and Mr. Smith were absent from the meeting.

A Copy Teste:



John W. Cooper, Deputy Clerk
Board of Zoning Appeals